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THE ROLE OF THE RESERVE COMPONENTS
IN THE WAR ON DRUGS

BY

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THE ROLE OF THE RESERVE COMPONENTS IN THE WAR ON DRUGS

An Individual Study Project
Intended for Publication

by

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U. S. Army War College
Carlisle Barracks, Pennsylvania 17013
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ABSTRACT

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INTRODUCTION

Once the United States recognized that it had a major problem with the use and trafficking of illegal substances within its borders and coined the phrase "War on Drugs" as a means of dealing with a situation that threatened the social structure and security of the nation, military involvement was inevitable. However, both political and operational dilemmas are posed by employing armed forces in drug interdiction and eradication. Because of the restraints constitutionally imposed by a nineteenth century statute called posse comitatus, active duty troops are restricted from enforcing domestic laws within the country's boundaries.

The Department of Defense (DOD), responding to the White House request for increased military involvement in drug interdiction and eradication, issued guidance to all military branches, including special challenges to their reserve components. While all services have reserve elements, these come under direct jurisdiction of their active duty counterparts; thus, they cannot participate in domestic law enforcement. In the War on Drugs their role is limited to working for eradication in their local communities and helping to strengthen the national will in support of a drug-free society.

Because of the constitutional restrictions placed on the active armed forces and their reserve components, the

most immediate domestic efforts by the military in supporting drug eradication can be provided by the National Guard. It is not limited by the statutory restraints of the other federal troops. Since individual state control governs the Guard unless it is federally activated, support to civil law enforcement agencies is both legal and consistent with the original purpose of state militia.

The National Guard, both Army and Air, is presently providing aid to civil agencies responsible for drug enforcement. However, more importantly, there is an extensive planning and coordinating effort underway at state and national levels designed to increase Guard duties in controlling the flow of illegal drugs into the country. In light of the legal restrictions placed on active duty and reserve soldiers, the domestic battle arena must be the responsibility of the Guard, and according to Lt. Gen. Herbert R. Temple, Chief of the National Guard Bureau, "...this mission is one we wholeheartedly accept."(1)

HISTORICAL BACKGROUND OF THE MILITIA

After the Revolutionary War, Washington and his supporters advocated a well-trained, organized militia composed of volunteers who would maintain their state statuses. Using the citizen-soldier as a defense against foreign aggression was a necessity to the new nation, which could not afford a standing army. Also, Americans, not long

separated from colonial tradition, had an innate distrust of military control resulting from recent years of British tyranny, which required the colonists to support the troops that occupied their territory.

In the Militia Act of 1792, framers of the Constitution established a standing militia. This statute, simply stated, gave Congress the right to organize, arm, and discipline individual state troops. The states maintained certain management authorities, such as appointment of officers and training standards. Under this clause, the militia and its modern counterpart, the National Guard, developed.(2) Unfortunately, no central control or standard criteria was established,(3) and Washington's dream of a state citizen-soldier as the backbone of the Nation's defense was doomed to failure.

The country entered the nineteenth century poorly equipped to defend itself. Many states actually dissolved their militia while most others had little or no training standards or operational funds. Since the Militia Act did not clearly establish who had authority over state soldiers in times of national crisis, governors legally could disagree with government policies and refuse to involve their troops in federal conflicts.(4) In fact, this happened during the War of 1812, the Mexican War, and the Civil War. Thus, the reasons cited by the Founding Fathers for maintaining the citizen-soldier were thwarted by weak

legislation, which left too much control in the hands of the individual state with little or no recourse for federal intervention.

Paradoxically, when the United States entered the twentieth century and was fast becoming a major world power, a return to Washington's theory of militia as an important defense was recognized as essential to the security of the nation. The state citizen-soldier concept, now referred to as National Guard, was strengthened by a series of legislative acts that organized it into a structure "almost identical to Washington's idea of a national militia." (5) Finally, after 111 years of floundering in the quagmire of the old Militia Clause, the Dick Act was signed in 1903; this spurred the Guard "along the irreversible path toward federalization." (6) Nationally mandated standards for training and qualification were placed on state troops.

Prior to World War I, responding to the age-old argument that the Guard under the direction of governors could not be an efficient, reliable reserve, legislation was almost passed to dissolve the state militia in favor of a "Continental Army" devoid of state connections. (7) However, this attempt was overridden, and the National Defense Act was signed into law in 1916. This law gave the National Guard its present dual role of state soldiers until federally activated.

THE DUAL ROLE OF THE NATIONAL GUARD

The National Guard is unique in its organization and differs from all other military forces. In essence, it serves two masters. Its federal mission is to provide properly trained and equipped units available for prompt mobilization in the event of national emergency or war and to be prepared to supply military support for civil and land defense. Under the provisions of the National Defense Act of 1916, guardsmen must take an oath to both their individual states and the United States. They may be "called" into active federal service as state troops, even though governors still retain the right to appoint and promote officers and furnish recruits for units as needed. Also, they may be "ordered" on active duty, subject to the regulations of the regular Army or Air Force.(8)

Soon after this legislation passed in 1916, the Presidential "call" was used when the National Guard was ordered to duty on the Mexican border. Again in 1917, it was applied when Wilson required Guardsmen to protect railroad bridges and other important installations. Further, during the turbulent civil rights actions of the 1960's and campus rioting to protest the bombing of Cambodia, the Guard became the ultimate domestic peacekeeping force.(9)

The Guard's second function in federal status can be seen in all twentieth century U.S. conflicts. Of the

"1,400,000 men who entered combat" in the first World War, "440,000 came from what were originally National Guard units. Likewise, in the second World War, 300,034 soldiers were ordered on active duty from the Guard, supplying eighteen divisions to the total war effort." (10) In addition, "183,600 citizen-soldiers were activated in the Korean War, 65,438 during the Berlin Crisis, and 22,745 in Vietnam." (11)

In addition to these federal roles, the National Guard retains its state mission. This is to provide emergency relief resulting from natural disasters, to conduct search and rescue, to protect life and property, to preserve peace and order, and to maintain vital public services. While performing state related duties, funding comes from individual state governments, and the Guard is commanded by governors.

Some of the major state-related callups result from natural disasters. In 1986, for example, floods, forest fires, ice storms, tornados and hurricanes accounted for over thirty percent of the state operations. Other missions were responses to civil disorders, such as strikes and prison riots. Likewise, the Guard conducted medical evacuations, search and rescue functions, and power outages. All in all, "12,238 personnel from 46 states and territories were involved in the total of 531 callups, requiring 135,661 mandays." (12)

THE NATIONAL GUARD'S INVOLVEMENT IN THE DRUG WAR

Only a few Guard units were involved in occasional drug interdiction missions during the 1970's. It was not until a 1982 Governor's Conference when a panel of governors urged Congress to allow militia participation nationally that the National Guard became the focus of military support in the War on Drugs. Several Congressmen, as well as the National Guard Association of the United States (NGAUS), advocated assigning drug interdiction missions to state soldiers. Congressman G. V. Montgomery, a member of the Armed Services Committee, provided the rationale:

The National Guard is part of the effort because it has the equipment, such as helicopters and vehicles useful in the drug war and it also has the personnel to operate that equipment.(13)

Additionally, the Guard is familiar with the role of supporting civil agencies and operating within the confines of state law enforcement jurisdictions. While active duty military branches are legally bound to perform only within the realm of federal authority, Guardsmen have historically worked at state and local levels. In their state status they serve under the command of individual governors and often are required to work with domestic personnel enforcing civil law.

Since 1983, when first requested by four states to supply local law enforcement with transportation and equipment, the Guard's role in drug interdiction has

increased overwhelmingly.(14) However, specific statistical data concerning drug enforcement operations was not separated from other mission activities until 1986. During that year "nineteen states and territories participated in 230 support missions, resulting in \$1,064,733,311 in illegal drugs eradicated or confiscated." (15) One example of a support operation was conducted by the 3rd Special Forces Battalion of the Florida National Guard. In a joint exercise involving that state's law enforcement department, a strategic reconnaissance training exercise took place which positioned Guard teams on surveillance duty in airfields known to be used by smugglers. Intelligence data was collected by night vision devices and cameras.(16) The success of this venture led to requests for more state military aid.

During 1987, emphasis increased on drug enforcement operations. Twenty-five states and territories participated in 365 missions and 553.9 million dollars in illegal substances were seized or eradicated. Specifically, 955,525 marijuana plants were destroyed, and 5,383 pounds of cocaine were interdicted.(17) The Guard's support to local law enforcement during this period is demonstrated by Oregon's 641st M. I. Battalion. In a two week period in early spring, they were involved in ninety-seven successful missions using airborne radar to spot targets suspected of use in air, land, and sea transportation of drugs. They

worked in collaboration with U.S. Customs, Coast Guard, and Border Patrol.(18)

Since greater public attention and large sums of tax dollars will be focused on the Guard's anti-drug operations, some failures should be noted. Worthwhile information may be gleaned from breakdowns in past missions. One such exercise in 1987 was labeled Operation Autumn Harvest. The Adjutant General of Arizona deployed four ground-based radar systems and personnel at four locations covering 84 percent of the length of the Arizona-Mexico border for thirty days. Customs aircraft were used to intercept, track, and apprehend suspected smugglers. No smugglers were apprehended, and there was criticism of inadequate coordination and insufficient involvement of Customs. However, one problem that may have had a direct result in the failure of the mission was that its details were disclosed and published in two state newspapers during the first week of operation. Therefore, the element of surprise was lost.(19) Nevertheless, as a learning experience in showing what not to do and indication of the value of coordination through a centralized agency, the exercise was a success.

By the beginning of 1988, it was apparent that the nation was committed to fighting the War on Drugs. It was also evident that the National Guard would be at the forefront of the battle. In a June 1988 letter to the

President, Edwin Meese, Chairman of the National Drug Policy Board, specifically requested that the Department of Defense expand the role of the Guard, increasing their training resources and drug enforcement operational support. He further proposed a thirteen percent increase in the 1988 budget to support drug-related programs.(20)

During the first eleven months in 1988, thirty-two states were involved in 456 drug-related missions. Over four thousand personnel were deployed, resulting in the seizure of about \$1.3 billion in marijuana and cocaine.(21) Twenty-two states used helicopters to transport law enforcement personnel and confiscate illegal substances. Three states used citizen-soldiers to search commercial cargo at ports and land border entry points. Eighteen states loaned night vision devices to local, state, and federal agencies. Photo reconnaissance and radar operations were supplied, as well as training to civilian authorities in rappelling, first aid, operation of night vision equipment, wilderness and land navigation.(22)

While much drug-related support has called for increased activity from state soldiers, passage of the Defense Authorization Act of 1988 spelled out the specific new role of the Guard. The law calls on the Pentagon "to serve as the lead agency of the federal government for the detection and monitoring...of illegal drugs into the United States." Congress appropriated \$300 million for military

drug interdiction, earmarking \$40 million for the National Guard.(23) These funds are allocated to the states through the authorization of the Secretary of Defense for use in interdiction and eradication operations.

In order to qualify for funding, each state, territory, and the District of Columbia must develop and submit a detailed plan proposing its military support to federal, state, and local law enforcement agencies. Each must include the type of mission, the duty status of the personnel, the equipment required, the estimated cost, guidelines and agreements with civilian agencies involved, security of the mission, and public awareness proposals such as news releases and media coverage.(24) These plans will be reviewed by the National Guard Bureau before being forwarded to the Department of Army and DOD for approval and release of monies.

To date, forty-nine plans have been submitted for consideration. Necessarily, border and port states will be given priority. The proposals have varied according to geographics. For example, California is requesting a helicopter battalion to patrol the 130-mile border with Mexico. Using special equipment to spot suspicious movement, the Guardsmen will then call in local police to make arrests. Texas has asked the state militia to check commercial trucks entering the U.S. over the Rio Grande. Florida wants its Guard to help customs agents check

incoming ships, and New York would like to train its soldiers to work with drug agents.(25)

One major concern with the Guard's military support to domestic law enforcement is that Guardsmen may become involved in physical arrests or in conducting search warrants and investigations. However, this is prohibited by the Constitution. Under the governor's jurisdiction in a state mission, Guard can apprehend and maintain, but cannot arrest.(26) Pentagon officials denied a request in the summer of 1988 by the governor of New York to use state troops to search incoming passengers and baggage at Kennedy Airport. The mission could not be approved because Guardsmen cannot search or detain individuals. They also cannot handle any drugs or allow their training centers for storage of illegal substances.(27)

Another concern with the increased funding for Guard support in drug interdiction and eradication is that it might interfere with the Guard's top priority of being prepared to deploy for combat to defend the United States. Thus, proposed exercises should be consistent with training and military readiness. However, in specifying this new role, Congress has expanded the Guard mission to include anti-drug activities. According to LTG Temple, in the past "the Guard could assist states in combatting drugs if it did not interfere with...the wartime mission," but now "directly fighting the drug traffic is an added...mission."(28)

THE DUTY STATUS OF THE GUARD
WHILE ON DRUG-RELATED MISSIONS

Since the National Guard has a dual role to serve as both state and federal troops, it operates under different duty statuses according to given missions. On active service, Guardsmen become a reserve component of the active Army or Air Force and are subject to the laws and regulations of these branches. They operate under Title 10 status which places them within the same restrictions as their fulltime counterparts. Therefore, just as all Armed Forces of the United States, they cannot be involved in civil law enforcement projects within the borders of the country.

When not federalized, the Guard may serve under two different status structures. The first is State Active Duty Status. The state is responsible for funding all costs and accepting full liability. In this role, troops may support civil authorities in drug interdiction and eradication. However, these domestic agencies may be required to provide reimbursement. The individual governors are in command of their own state units.

The second duty status, Title 32, is another category under which militia may actively be involved in the War on Drugs. This standing has a two-fold definition. First, in the Incidental to Training area, Guard may support civil authorities if such aid does not interfere or detract from

scheduled training. The State Adjutant General determines if the request can be honored in conjunction with routine planned operations. Specific routes and training sites can be altered as long as no additional funds are expended.(29)

Under the second provision of Title 32, called Additional Duty Over and Above Normal Training, personnel can participate in domestic support if it is directly related to their Military Occupational Specialty or Common Soldier Skills. Current Congressional funding for increased support to civil authorities will be released under this status which provides federal rather than state liability. While all states cannot receive initial funding, they may still offer aid to local officials. As long as the mission fits into the normal training program, the cost of the operation will come out of the allocated federal training budget. Guardsmen under both areas of Title 32 status will not become involved in arrest of people in illegal drug activity.(30)

FUTURE PLANS FOR GUARD'S ROLE IN ANTI-DRUG SUPPORT

While the level of National Guard support in drug-related missions has steadily increased in the past few years, the future will focus on even greater Guard emphasis and involvement. Planning at the National Guard Bureau has been extensive, covering a five year period through FY 93. The purpose provides a framework by which states can operate

in future drug interdictions and eradications. The original Congressional allocation of \$40 million is sufficient for only a limited number of state approved plans during FY 89. Any NGB long-term projections for supporting civil law enforcement agencies will be based on the assumption that an additional 10 to 110 million dollars will be appropriated.(31)

Focus on future Guard drug-related missions is as follows: loaning or leasing of equipment, providing training for the operation of equipment, improving interface with activities conducted with other states and agencies, ensuring that all support is documented and reimbursed, improving operational planning, assessing program effectiveness, and promoting public awareness without endangering security.(32) Assessment of past operations indicates that the success or failure of support was significantly affected by the efficient monitoring of these items. For example, Autumn Harvest would have yielded more positive results if better communications had been maintained between the military and Custom's personnel. Also, untimely news releases had adverse results on the operation's overall success and perhaps endangered the security of the mission.

Planning for future National Guard support missions should take the following matters into account:

1. Loans and Leases of equipment will be equally used in small numbers for short periods of time. NGB will monitor to ensure reimbursement is effected to include time devoted to equipment preparation and repair.

2. Operational instructions will continue to be provided to the borrowing agency on each specific piece of equipment. Length and type of training will be left to the discretion of the states. NGB will publish guidelines to the states to ensure that records are maintained and costs recovered.

3. Training in rappelling, aerial observation, and operations planning will continue to be provided on an individual case basis. Emphasis will be placed on assisting external agencies in planning missions.

4. Eradication training should be expanded to include all states. Past operations should be reviewed and refined.

5. In eradication operations, Guard personnel should assist with information collection and facilitate equipment loans.

6. All support to civil law enforcement must be documented and reimbursed. More instructional support in the operational planning area should be provided.

7. Improved coordination and information sharing between non-military activities is essential.

While state Guardsmen are familiar with supporting civilian law enforcement agencies in local communities, the

need for more involvement over an indefinite period of time is required if America is going to be successful in drug interdiction and eradication. The NGB is attempting to plan ahead and provide guidelines to the states for what will obviously be their increased role in this nationwide battle. Since military efforts in this area are relatively new, it is only through constant monitoring and review that mistakes will be avoided in future operations.

CONCLUSION AND RECOMMENDATIONS

This country is currently involved in a struggle that threatens its future. The use of illegal drugs has permeated the population and is undermining the social structure of this nation. No adversary in the annals of American history can compare with this illusive and insidious enemy. However, now that the problem has been identified and the foe specified, people can rally to a cause and begin to consider solutions.

Moving America toward a drug-free society will require the efforts of everyone across the nation. There will be no "quick fix". Rather, a consistent plan over a long term is needed. Too often, in recent years, the attitude has prevailed of throwing away the broken object instead of repairing it. However, the future of this country cannot be discarded if democracy is to exist.

Since the nation has declared "war", and the National Guard is tasked to provide military support within U.S. borders, certain areas must be addressed if success is achieved. Of primary concern is future funding. While Congress has appropriated \$40 million for Guard support to drug eradication and interdiction in 1989, this will not adequately support even this year's state mission requests. Hopefully, it will supply the needed finances for those border and port states which are deemed most urgent. However, these initial resources are only a beginning. If the intent is to actually mount a realistic war on drugs, Congress and the American people must be prepared to finance it. This calls for a long-range effort on many fronts. Both resources and public support must exist.

If no new funds were appropriated, state militia could still support civil authorities during weekend drills and two-week annual training schedules. These sessions are already financed under Title 32. Nevertheless, loaning and leasing of equipment cannot be considered without additional Congressional allocations. Therefore, commitment of appropriate financial resources is essential to this venture, just as it would be in any military campaign.

Another area of concern in the Guard's support to drug-related activities is training. Operating equipment, rappelling, map reading, and wilderness navigation are areas now supplied to civilian agencies by state soldiers.

However, domestic law enforcement has only provided limited instruction to Guardsmen in drug identification and civil legalities. If citizen-soldiers are expected to aid in interdiction and eradication of illegal substances, knowledge in these areas is essential. Civilian law enforcement agencies should develop effective information and training programs for military personnel. Successful inter-agency operations rely heavily on an understanding of how each works and the legal limitations which restrict each agency.

A third critical area of concern is assurance of public support to military intervention in the War on Drugs. Failure to assess national will has had disastrous effects on past armed conflicts. For example, the U.S. involvement in Viet Nam was doomed because of the gross misjudgment concerning the will of the American people. Indeed, at present it appears that this nation supports the eradication of drugs from its society. However, it would be unrealistic to assume that this battle would be casualty free. Already, Guard personnel have been killed on surveillance missions. While there is a certain amount of expectation on the part of the public that soldiers may lose their lives, are Americans ready to face the possibility of loss of civilian lives? Instead of skirting this question or even avoiding it altogether, citizens need to be made aware of the inevitability.

Along with the problem of public support is the concern over the handling of information. While Americans constitutionally have the right to be informed, the problem of operational security needs to be addressed. The National Guard Bureau is aware of the various states' dilemmas over this issue and has issued guidelines for information released through its offices. Yet, the military is operating in joint ventures rather than alone. A delicate balance must be attained between maintaining security and promoting public awareness and support. A central news agency for release of information concerning both civilian and military organizations might be the answer.

Finally, the question of responsibility must be answered. This nation at all levels has become too quick to assign blame and demand punishment for mistakes. More often than not, the attitude in society has been to do nothing rather than admit failure. In this conflict, as in any other, errors will be made. To equivocate and allow the economic and moral fabric of this country to erode is the greatest problem the United States faces. Recognition that mistakes will be made and that successes will be interlaced with failures is of paramount importance. Military support in the War on Drugs will be provided by the National Guard. They are, as Washington called them, citizen-soldiers. They are human and are subject to the same errors in judgment that permeate the rest of the population. However, with

adequate funding, proper training, and support of the Nation, they can help in eradicating illegal substances from this country. They can provide critical aid to the United States in its struggle for a drug-free society.

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